

CS FOR HOUSE BILL NO. 374(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered: 3/9/18

Referred: Labor and Commerce

Sponsor(s): REPRESENTATIVES WOOL, Parish, Kawasaki, Gara, Kito, Josephson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to on-bill financing by an electric or gas distribution utility for certain**
2 **energy efficiency and conservation improvements."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 42.05 is amended by adding new sections to read:

5 **Article 8A. On-Bill Financing of Energy Efficiency and Conservation Improvements.**

6 **Sec. 42.05.750. On-bill financing of energy efficiency and conservation**
7 **improvements; authorization and eligibility.** (a) An electric or gas distribution
8 utility may enter into a written on-bill financing agreement with a customer or
9 landlord of a customer to finance the purchase and installation of a renewable energy
10 system, energy efficiency device, energy storage device, or energy conservation
11 system in a residence or building that is eligible under (b) of this section by assessing
12 a meter conservation charge on the customer's utility bill. The meter conservation
13 charge may only be used to recover the

14 (1) actual costs incurred by the utility for the purchase, installation,

1 and financing of the renewable energy system, energy efficiency device, energy
 2 storage device, or energy conservation system, including the administrative costs of
 3 the on-bill financing agreement and the cost of filing notice under AS 42.05.752; and

4 (2) repayment of costs incurred by a third party that has performed a
 5 function under AS 42.05.755.

6 (b) A residence or building is eligible for on-bill financing under (a) of this
 7 section if, at the time the financing agreement is entered into, the residence or building

8 (1) is occupied or in use; and

9 (2) is not under initial construction.

10 (c) An on-bill financing agreement must clearly state the interest rate to be
 11 charged for financing the purchase and installation of the renewable energy system,
 12 energy efficiency device, energy storage device, or energy conservation system. The
 13 interest shall be set at a rate that is fixed over the term of the agreement.

14 (d) The balance owed on an on-bill financing agreement may be paid in full at
 15 any time without penalty.

16 **Sec. 42.05.751. Meter conservation charge.** (a) To recover its costs under an
 17 on-bill financing agreement for a residence or building, an electric or gas distribution
 18 utility may assess a meter conservation charge on

19 (1) the customer or landlord who entered into the on-bill financing
 20 agreement;

21 (2) a subsequent purchaser of the residence or building under
 22 AS 42.05.753; or

23 (3) a tenant or subsequent tenant of the residence or building under
 24 AS 42.05.754.

25 (b) A meter conservation charge must be shown as a separate line item on a
 26 customer's bill.

27 (c) A utility may treat a customer's failure to pay a meter conservation charge
 28 as a failure to pay the electricity or gas account, and the utility may disconnect electric
 29 or gas service for nonpayment of the meter conservation charge, if the utility complies
 30 with AS 42.05.261, 42.05.381(c), AS 42.20.040, and any other applicable law. A
 31 utility may not remove a renewable energy system, energy efficiency device, energy

1 storage device, or energy conservation system for failure to pay a meter conservation
2 charge or when disconnecting service for failure to pay a meter conservation charge.

3 (d) Money collected by a utility as a meter conservation charge is not revenue
4 subject to state taxes under AS 43.20.

5 (e) The billing and collection of a meter conservation charge does not subject
6 a utility to the laws that regulate financial institutions, escrow depositories, or
7 collection agencies. A utility is not responsible for a lending, underwriting, or credit
8 determination for an on-bill financing agreement.

9 **Sec. 42.05.752. Notice of on-bill financing agreement and meter**
10 **conservation charge.** (a) An electric or gas distribution utility that enters into an on-
11 bill financing agreement shall file notice of the on-bill financing agreement and related
12 meter conservation charge in the recording district in which the residence or building
13 subject to the agreement is located. Notice under this subsection does not constitute a
14 lien on the property, but is intended to give a purchaser of the residence or building
15 notice that the residence or building is subject to a meter conservation charge. Notice
16 is considered given if it is sufficient to disclose to prospective purchasers

17 (1) the existence of the meter conservation charge, including the
18 balance owed under the on-bill financing agreement and the length of time the meter
19 conservation charge is expected to remain in effect; and

20 (2) a purchaser's obligation to notify a tenant under AS 42.05.754 if
21 the purchaser leases the property.

22 (b) A utility shall file notice of satisfaction when an on-bill financing
23 agreement is paid in full. Notice of satisfaction shall be filed in the recording district
24 in which the residence or building subject to the agreement is located.

25 **Sec. 42.05.753. Transferability of on-bill financing balances to subsequent**
26 **purchasers.** An electric or gas distribution utility that enters into an on-bill financing
27 agreement may recover the balance of the costs allowed under the agreement from a
28 subsequent purchaser of the residence or building in which the renewable energy
29 system, energy efficiency device, energy storage device, or energy conservation
30 system was installed if the utility gives notice under AS 42.05.752 that the residence
31 or building is subject to the agreement.

1 **Sec. 42.05.754. Rental property.** (a) An electric or gas distribution utility may
 2 recover the costs under an on-bill financing agreement for a rental property by
 3 assessing a meter conservation charge on the tenant's utility bill only if the

4 (1) utility, landlord, and tenant agree to the charge in an agreement that
 5 provides notice to the landlord of the requirements in (b) of this section; or

6 (2) tenant occupies a rental unit for which a meter conservation charge
 7 was previously assessed on a former tenant's utility bill under (1) of this subsection to
 8 recover the costs under an on-bill financing agreement.

9 (b) Before entering into a rental agreement with a tenant, a landlord shall give
 10 the tenant written notice of a meter conservation charge that the tenant could be
 11 subject to under (a)(2) of this section. If the landlord fails to give the required notice,
 12 the tenant may, for not longer than one-half of the term of the rental agreement, deduct
 13 the meter conservation charges paid by the tenant from rent paid.

14 (c) A utility may enter into an on-bill financing agreement with the tenant of a
 15 rental property only if the landlord consents to the agreement.

16 **Sec. 42.05.755. Third parties; contracting and liability.** (a) An electric or
 17 gas distribution utility may contract with a third party to perform functions permitted
 18 under AS 42.05.750 - 42.05.754, including financing the purchase and installation
 19 costs for a renewable energy system, energy efficiency device, energy storage device,
 20 or energy conservation system. The third party shall comply with AS 42.05.750 -
 21 42.05.754.

22 (b) If the installation, operation, or maintenance of a renewable energy system,
 23 energy efficiency device, energy storage device, or energy conservation system is
 24 performed by a third party,

25 (1) the utility is not liable for the installation, operation, or
 26 maintenance of the renewable energy system, energy efficiency device, energy storage
 27 device, or energy conservation system;

28 (2) the utility may not provide, nor is there implied, a warranty of
 29 merchantability or fitness of the renewable energy system, energy efficiency device,
 30 energy storage device, or energy conservation system; and

31 (3) no action may be brought against the utility related to the failure of

1 the renewable energy system, energy efficiency device, energy storage device, or
2 energy conservation system.

3 (c) When a utility contracts with a third party to perform administrative or
4 financing functions,

5 (1) the third party is not liable for the installation, operation, or
6 maintenance of the renewable energy system, energy efficiency device, energy storage
7 device, or energy conservation system;

8 (2) the third party may not provide, nor is there implied, a warranty of
9 merchantability or fitness of the renewable energy system, energy efficiency device,
10 energy storage device, or energy conservation system; and

11 (3) no action may be brought against the third party related to the
12 failure of the renewable energy system, energy efficiency device, energy storage
13 device, or energy conservation system.

14 (d) The provisions of (b) and (c) of this section may not be construed to impair
15 the rights and remedies of a utility customer or landlord of a utility customer against
16 any other parties to a transaction involving the purchase or installation of a renewable
17 energy system, energy efficiency device, energy storage device, or energy
18 conservation system.

19 **Sec. 42.05.756. Definitions.** In AS 42.05.750 - 42.05.756,

20 (1) "energy conservation system" includes a fuel-switching system; in
21 this paragraph, "fuel-switching" means the replacement of existing fuel consuming
22 equipment using a particular fuel with more efficient fuel consuming equipment that
23 uses another fuel but does not increase direct greenhouse gas emissions;

24 (2) "meter conservation charge" means a charge placed on a customer's
25 utility bill by which an electric or gas distribution utility recovers the

26 (A) costs of the purchase, installation, and financing of a
27 renewable energy system, energy efficiency device, energy storage device, or
28 energy conservation system;

29 (B) administrative costs of the on-bill financing agreement;

30 (C) cost of filing notice under AS 42.05.752; and

31 (D) repayment of costs incurred by a third party that has

1 performed a function under AS 42.05.755;
2 (3) "on-bill financing agreement" means an agreement entered into
3 under AS 42.05.750.